

E-FILED 7/31/07

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ALEXY STEPANOV,

Plaintiff,

v.

MICHAEL CHERTOFF, et al.,

Defendants.

Case Number C 07-2492 RS

ORDER

In this action, plaintiff seeks to compel defendants to take action on his application for lawful permanent resident status. Defendants' answer asserts, among other things, that the Court lacks subject matter jurisdiction over this matter and that the case should be dismissed pursuant to Rule 12 (b)(6) of the Federal Rules of Civil Procedure. Defendants have not filed such a motion in this action, but presumably are referring to jurisdictional arguments that appear to have been rejected by every court in this district that has considered them in similar cases. This Court sees no basis to deviate from the considered analysis in those decisions. See, *Qui v. Chertoff*, 2007 WL 1831130, *2 n.3 (N.D. Cal. June 25, 2007) (collecting cases from not less

1 than ten judges in this district finding jurisdiction exists on facts materially indistinguishable
2 from the facts here). Accordingly, the Court will not invite defendants to make a motion to
3 dismiss. It appears, however, that the issues raised in the complaint likely are amenable to
4 resolution on summary judgment. The parties are directed, therefore, to file cross-motions for
5 summary judgment as promptly as practicable. The case management conference scheduled for
6 August 15, 2007, is vacated.

7 IT IS SO ORDERED.

8
9 Dated: 7/31/07


RICHARD SEEBORG
United States Magistrate Judge

THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY PROVIDED TO:

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.

Dated: July 31, 2007

/s/ BAK
Chambers of Magistrate Judge Richard Seeborg